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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/993,321	11/14/2001	Michael Whitsett	A00333US	5665

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EXAMINER

SAFAVI, MICHAEL

ART UNIT PAPER NUMBER

3673

DATE MAILED: 05/02/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/993,321

Applicant(s)

WHITSETT, MICHAEL

Examiner

M. Safavi

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 November 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 16, 19, 21, 25, 26 and 29-32 is/are allowed.
- 6) ☒ Claim(s) 1-3, 6-15, 17, 18, 20, 22-24, 27 and 28 is/are rejected.
- 7) ☒ Claim(s) 4 and 5 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 2, 6-15, 17, 18, 20, 22-24, 27, and 28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 2, "the enlarged diameter section" lacks antecedent basis within the claim.

Claim 6, line 5, "each of the pile sections" lacks antecedent basis within the claim. Line 12, "the joint between pile sections" lacks antecedent basis within the claim. Lines 13-14, "the squared end portions" as well as "connected...[pile] sections" lacks antecedent basis within the claim.

Claim 8, line 1, "each pile section" lacks antecedent basis within the claim. Lines 2-3, "the squared end portions" lacks antecedent basis within the claim.

Claim 10, line 4, "the helical anchor" lacks antecedent basis within the claim.

Claim 17, "the enlarged diameter" lacks antecedent basis within the claim.

Claim 20, line 4, "the joint bores" lacks antecedent basis within the claim.

Claim 22, "the enlarged diameter" lacks antecedent basis within the claim.

Claim 27, "the enlarged diameter section" lacks antecedent basis within the claim.

3. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the

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following is required: "water barrier pipe means" as recited within claim 32 does not appear to have antecedent basis within the specification.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(c) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

5. Claims 1 and 10-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Turzillo.

Turzillo discloses, Fig. 1, an pile apparatus and method of installing a pile system having hollow pile sections 11 with a lowermost pile section connected to a helical anchor 14, and an internal drive system formed of sections 16 connectable end to end and which fit within the pile sections with the drive including enlarged members 18 that fit at joints 12 between respective pile sections. The anchor being driven into the ground and the lowermost or first pile section being connected

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to the anchor. Filler material is added within the pile sections with at least part of the drive member being removed, (as upper sections 18 and above), before adding the filler material.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Turzillo in view of Baumann.

Baumann teaches a variety of cross sectional shapes for internally threaded coupling means, such as 50, including cylindrical and square, col. 6, lines 38-44. To have formed the Turzillo coupling member or enlarged member 18 of a square cross section, thus realizing the advantages of such known cross section for connectors as for example, ease of turning, would have constituted an obvious expedient to one of ordinary skill in the art as taught by Baumann.

8. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Turzillo in view of Baumann as applied to claim 2 above, and further in view of Fujita.

9. Fujita teaches forming pile sections of a circular or square cross sectional shape, Fig. 1 and Figs. 7 and 10. To have formed the pile sections 11 of the modified Turzillo assembly of a square

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cross section, thus realizing an effective resistance to compression or buckling, would have constituted an obvious expedient to one of ordinary skill in the art as taught by Fujita.

Claims 4 and 5 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 20 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Claims 6-9, 17, 18, 22-24, 27, and 28 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

10. Claims 16, 19, 21, 25, 26, and 29-32 are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Safavi whose telephone number is (703) 308-2168.



MICHAEL SAFAVI
PRIMARY EXAMINER
ART UNIT 3673

M. Safavi
April 30, 2003